

REMARKS

Claims 64, 67, 70-72, 78, and 80-88 have been canceled and claims 62, 63, 65, 66, 68, 69, 76, and 77 have been amended, without prejudice. Applicant specifically reserves the right to pursue the subject matter of the canceled claims or any subject matter that may have been removed by the amendments in one or more related applications. New claims 89-139 have been added. After entry of this amendment, claims 62, 63, 65, 66, 68, 69, 76, 77, 79, and 89-139 will be pending. The amendments and new claims are all supported by the specification and, as such, do not introduce new matter.

In particular, the amendments to the claims and the new claims are at least supported in the specification (page and line numbers according to the substitute specification filed June 14, 2002) as follows:

Claim	Support in Specification
62, 76	Page 3, lines 13-16; Page 14, line 30 to Page 15, line 20; Page 24, line 20 to Page 25, line 3
63, 77	Page 25, lines 6-7; Page 26, lines 8-10
65, 79	Page 35, line 9 to Page 36, line 14
66, 101-111	Page 17, lines 13-15
68	Amended dependency only
69	Page 25, lines 8-25
89, 93, 94, 96	Page 17, lines 17-19
90	Page 25, line 24
91	Page 17, lines 17-19; Page 25, line 24
92, 129	Page 37, lines 8-10
95	Page 16, lines 26-29
97, 104, 110	Page 106, lines 28-30
98	Page 105, line 25 to Page 108, line 13
99	Page 107, lines 1-12
100	Page 105, line 29 to Page 106, line 30
112	Page 10, lines 19-20
113, 114	Page 5, line 50 to Page 6, line 26
115-117	Page 6, line 27 to Page 7, line 17
118, 119, 135, 136	Page 10, lines 21-24; Page 27, lines 20-25
120-122, 137-139	Page 10, lines 25-29; Page 27, lines 20-25
123	Page 11, lines 25-26;
124-126; 130-132	Page 34, line 3 to Page 38, line 17
127, 128, 133, 134	Page 27, line 26 to Page 28, line 9

Applicant acknowledges that the rejections under 35 U.S.C. §§ 101, 102(a) and 103(a) have been withdrawn. In addition, the Examiner has objected to claim 67 for a typographical error. Claim 67 has been canceled without prejudice, thus rendering the objection moot.

The Examiner has maintained the rejection of claims 62-72 and 76-81 and has rejected new claims 82-88 under 35 U.S.C. § 112, first paragraph. In particular, the Examiner maintains that the specification, while enabling induction of an immune response, does not enable vaccines for treating or preventing HIV-related diseases. Applicant respectfully disagrees with the Examiner's position for the reasons set forth in Applicant's Amendment and Response Under 37 C.F.R. § 1.111, filed on August 6, 2003. However, to expedite prosecution, Applicant has amended the claims pursuant to the Examiner's recommendation in the Office Action dated October 9, 2003 ("October Office Action"). In particular, the claims have been amended to remove "vaccine" and intended use from the claims and to clarify the structure of the Tat protein, namely, that it is non-aggregated and non-oxidized. These amendments are made without prejudice to Applicant's right to pursue claims with such limitations in a related application. Thus, Applicant respectfully requests withdrawal of the rejection.

Applicant recognizes that claims added by amendment herein are drawn to subject matter not elected in response to the restriction requirement dated March 19, 2001, for example, subject matter of groups VI, VII, VIII, IX, X, XIII, XIV, XVI. However, as discussed below, Applicant respectfully requests that these groups be combined since the Examiner now finds the general concept of biologically active isolated Tat that is non-oxidized and non-aggregated to be patentable.

In the Response to Restriction Requirement dated August 10, 2001, Applicant traversed the restriction requirement arguing that these groups are more specific applications

of the general concept of Tat protein in its biologically active form (see August 10, 2001 response at page 5). The Examiner maintained the restriction requirement in the Office Action dated January 16, 2002, stating that "[the traversal] is not found persuasive because the inventive concept, biologically active Tat, is notoriously well known in the art." From this point of view, the Examiner found no unity of invention. However, now that the Examiner has accepted the patentability of the broader concept of biologically active isolated Tat protein that is non-oxidized and non-aggregated, the dependent claims reciting, *inter alia*, modes of administration and additional components of the composition, should be the same invention as the independent claims reciting the elected subject matter. Thus, Applicant respectfully requests that the new dependent claims added herein be entered and considered in this application.

CONCLUSION

In view of the Examiner's statements in the October Office Action, Applicant respectfully submits that the claims as amended herein are in condition for allowance. Applicant respectfully requests that the Examiner enter the amendments made herein and allow the claims. The Examiner is invited to telephone the undersigned should any issues remain.

Respectfully submitted,

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